

STATE OF MICHIGAN

LENAWEE COUNTY CIRCUIT COURT

TAMARIS L.M. HENAGAN,

Plaintiff,

Case No. 24-7425-CZ

Hon. Patricia Perez Fresard<sup>1</sup>

-v-

LENAWEE COUNTY BOARD  
OF ELECTION COMMISSIONERS and  
CATHERINE A. SALA,

Defendants.

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**ORDER DENYING PLAINTIFF'S AMENDED MOTION  
FOR SPECIAL LEAVE TO FILE QUO WARRANTO**

At a session of said Court,  
held in the City of Detroit,  
County of Wayne, State of Michigan  
on OCTOBER 31, 2024  
PRESENT: Hon. Patricia Perez Fresard  
Circuit Court Judge

Pending before the Court is Plaintiff's Amended Motion for Special Leave to File Quo Warranto. The Court, having heard oral argument, having reviewed the motion and response, and otherwise being fully advised in the premises, issues the following opinion and order.

**Background**

This action was filed on August 27, 2024, in Lenawee County Circuit Court by Tamaris Henagan, a write-in candidate for Lenawee County Probate Court judge, with respect to Judge Catherine Sala ("Defendant"), who has served on the bench of the Lenawee County Probate Court since her election in 2018 and is currently running for re-election. Plaintiff generally alleges that Judge Sala does not reside in Lenawee County at the address in Addison, Michigan (the "Addison address") listed on the affidavit of identity (AOI) she filed for the 2024 election, but instead resides at her husband's residence in Grass Lake in Jackson County (the "Grass Lake address").

Plaintiff's filings included a motion for writ of mandamus and injunctive relief, and a motion for leave to file an action for quo warranto. Plaintiff filed a first amended brief on August

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<sup>1</sup> Acting by State Court Administrative Office Assignment No. 2420596.

29, 2024, and obtained an order to show cause on September 4, 2024, with respect to her motion for a writ of mandamus. Following a hearing on September 17, the Court issued an order denying Plaintiff's requests for a writ of mandamus and a preliminary injunction, which dismissed all claims against the Lenawee County Board of Election Commissioners.<sup>2</sup> At the September 17 hearing, Defendant Sala argued that Plaintiff's motion for leave to file quo warranto was vague and ambiguous with respect to whether it addressed Defendant's current term of office, or the term she is running for. The parties stipulated to allow Plaintiff to file an amended motion. Plaintiff subsequently filed the amended motion pending before the Court.

In her amended motion for special leave to file quo warranto proceedings, Plaintiff alleges that Defendant is not domiciled within Lenawee County, and is therefore ineligible to hold the public office of Lenawee County Probate Judge. She further alleges that Defendant misrepresented her address on the affidavits of identity she filed in 2018 and 2024, and is therefore disqualified from running for and holding office. Plaintiff claims that on April 2, 2024, she hired a private investigator to prepare a "nonbiased" report regarding whether Defendant actually resides at the Addison address in Lenawee County listed on her AOI. Plaintiff alleges that on June 2, 2024, she received a report from the investigator indicating that Judge Sala actually resides in Jackson County at the Grass Lake address. Plaintiff then hired an additional investigative team to engage in surveillance of both the Addison address and the Grass Lake address. The surveillance occurred between May 28 and July 24, 2024. As described in further detail below, the surveillance consisted of reviewing footage from a trail camera mounted at the Addison address, plus surveillance on four dates (June 1, June 30, July 22, and July 24). On July 11, 2024, Plaintiff filed a request for an action for quo warranto with the Michigan Attorney General. On August 12, 2024, the Attorney General's office sent Plaintiff a letter denying the request. Plaintiff then filed the present action.

In response to Plaintiff's amended motion for leave to file quo warranto, Defendant argues that Plaintiff's request for relief remains vague with respect to whether she seeks leave to file quo warranto regarding Defendant's current term, or the term for which Defendant seeks re-election. Defendant further argues that Plaintiff's request is barred by laches with respect to Defendant's current term. Defendant contends that quo warranto is inapplicable to any future term of office, because Defendant does not hold that term of office yet. In addition, Defendant argues that Plaintiff is barred from equitable relief as a result of unclean hands, alleging that Plaintiff is using litigation to intimidate Defendant and improperly influence voters. Finally, Defendant argues that Plaintiff's claims lack merit, based on both the statutory definition of "residence" and the evidence submitted by Plaintiff. The Court held a hearing on Plaintiff's motion on October 9, 2024, and took the matter under advisement.

### Discussion

For the reasons described below, the Court will deny Plaintiff's amended motion for special leave to file quo warranto proceedings. While such an action would not be barred on procedural grounds such as laches, it would be unwarranted for lack of merit. As explained herein, Plaintiff's motion fails to disclose sufficient merit to justify further inquiry by quo warranto proceedings.

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<sup>2</sup> The Court's September 20 order denied Plaintiff's requests for a writ of mandamus and injunctive relief based on the doctrine of laches.

“Quo warranto” is a “common-law writ used to inquire into the authority by which a public office is held or a franchise is claimed.” Black’s Law Dictionary (9th ed.). Quo warranto is the only appropriate remedy for determining the proper holder of a public office. *Petrie v Curtis*, 387 Mich 436, 438–441; 196 NW2d 761 (1972); *Layle v Adjutant General*, 384 Mich 638, 641; 186 NW2d 559 (1971). MCR 3.306 governs actions for quo warranto. The most important considerations in granting leave to file quo warranto are (1) whether an appropriate application was made to the Attorney General and (2) whether the application disclosed sufficient apparent merit to justify further inquiry by quo warranto proceedings. *Grand Rapids v Harper*, 32 Mich App 324, 329; 188 NW2d 668 (1971).

The Court will first address Defendant’s arguments that (1) a quo warranto action regarding any future term of office is premature, and (2) a quo warranto action regarding her current term is barred by laches. With respect to the term of office Defendant is currently running for, as Defendant points out, there is no guarantee Defendant will be re-elected. (While Defendant is the only candidate for probate judge listed on the ballot, Plaintiff is campaigning as a write-in candidate.) An action in quo warranto with respect to a potential future term would therefore be premature.

Turning to Defendant’s argument that a quo warranto action regarding her current term is barred by laches, laches is an equitable tool that may be used to remedy the inconvenience or prejudice caused to a party because of an improper delay in asserting a right. *Public Health Dep’t v Rivergate Manor*, 452 Mich 495, 507; 550 NW2d 515 (1996). The issue of whether relief will be withheld on the basis of laches is contingent upon the facts and circumstances of the particular case. *Henderson v Connolly’s Estate*, 294 Mich 1, 19; 292 NW 543 (1940). When no acceptable explanation is proffered for a plaintiff’s delay, a plaintiff’s requested relief should be barred by unexcused laches. *Id.* In *Stokes v Clerk of Bd of Canvassers of Monroe Cnty*, 29 Mich App 80; 184 NW2d 746 (1970), the Court held that in cases where an action for quo warranto is brought by a private individual within six years of the election, the rule to be applied

is whether the action is commenced within a reasonable time taking into account the excuse for delay, the probable harm to the defendant and the detriment to the public. This rule is an attempt to balance the interests of the public in knowing who are their legally-constituted officials and the interests of orderly government in not being subjected to serious, unexpected interruptions.

29 Mich App at 87.

In the present case, Plaintiff concluded her investigations regarding Defendant’s residence in late July, and filed her action in late August, 2024, about four months prior to expiration of Defendant’s current term of office. For purposes of Plaintiff’s request for a writ of mandamus removing Defendant from the November 2024 ballot, the Court concluded that Plaintiff’s request was barred by laches, because ballots were already being printed by the time Plaintiff filed her action. However, assuming Plaintiff’s claims had merit, laches would not bar a quo warranto action

under these circumstances, where Plaintiff delayed filing her action by about one month following conclusion of her investigation.<sup>3</sup>

Based on the foregoing, the Court disagrees that laches bars this action. Nevertheless, the Court will deny leave, because the application does not disclose sufficient apparent merit to justify further inquiry by quo warranto proceedings.

Plaintiff's action is based on the claim that Lenawee County is not the county in which Defendant has her residence. MCL 168.11(1) provides the following definition of "residence":

"Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her spouse, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section does not affect existing judicial interpretation of the term residence.

The term has been given the following judicial interpretation: "Residence means the place where one resides, an abode, a dwelling or habitation, especially a settled or permanent home or domicile. Residence is made up of fact and intention. There must be the fact of abode, and the intention of remaining." *Reaume & Silloway v Tetzlaff*, 315 Mich 95, 99; 23 NW2d 219, 221 (1946), quoting *Wright v Genesee Circuit Judge*, 117 Mich 244; 75 NW 465, 466.

Plaintiff's claim that Defendant resides in Jackson County at the Grass Lake address is primarily based on the reports of two private investigators. Those investigative reports included hundreds of pages of background information regarding Defendant and her family members, including contact information, address histories, social media information, etc.<sup>4</sup> Citing the investigative reports, Plaintiff's complaint makes claims such as the following: "Despite a 30-day continuous observation period of 24-hour motion activated cameras and multiple random observation dates and photos from multiple individuals, Defendant Sala was not observed at the Lenawee County Address," and "Defendant Sala was observed arriving home from work and parking in the garage of her Grass Lake residence." However, a review of the investigative reports establishes that Plaintiff's claims are, at most, exaggerated assumptions based on scant actual information.

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<sup>3</sup> Plaintiff claims that her investigation revealed Defendant has not resided at the Addison address since 2017, but there is no indication Plaintiff undertook an investigation into Defendant's residence until April, 2024.

<sup>4</sup> The initial investigation undertaken by Plaintiff, referenced as "the Butler Report" in her pleadings, consisted primarily of a review of publicly available information purchased through entities such as Truthfinder, Been Verified, and IRBSearch. As Defendant points out, the Truthfinder report includes a lengthy disclaimer regarding limits on the use of such information, based on its potential unreliability.

While the investigation that used trail cameras may have been intended to provide “30-day continuous observation,” the report on that investigation describes “surveillance” on three dates, only, and acknowledges that the trail camera images “didn’t look great as the winds didn’t help.” The investigation was opened on May 28, 2024, and closed on July 24, 2024. It references just four dates of actual observation; the observations are accompanied by vague, speculative statements. (The report refers to Defendant as the “POI” (Person of Interest).) For example, on June 1, 2024, the investigators describe a “Scout Mission” to the Addison address: “Property appears to have a ‘closed up for the season look.’ It is obvious no one is living full time at this property.” The report does not explain why it is obvious no one is living full time at the property, or what is meant by “full time.” No other observations are described until June 30, 2024, when trail cameras were mounted at the Addison address. The investigators observed, “It appears guests have parked in the driveway of 6214.” Presumably, the report is referencing guests at the Addison property, suggesting someone was inside the residence. Nevertheless, on the next recorded date of surveillance, July 22, the report states that at 9:17 p.m., the “residence remains empty.” The report states, “Drove by Grass Lake address – it looks like the cars are pulled into the garage.” In other words, the observer did not see Defendant’s vehicle at either the Addison address or the Grass Lake address. Notably, while the July 22 report claims the Addison property “remains empty,” it offers no reference points for the statement, particularly since the property apparently had guests on the date of the last recorded observation, June 30.

On July 23, the investigators surveilled Defendant from 3:30 p.m. until 9:00 p.m. At 5:25 p.m., Defendant was still at work, but the investigators reported that Defendant was at the Grass Lake residence at 8:27 p.m. An observation of the Addison address on that date noted that “the window curtain hasn’t moved on the side of the house in over one month since the first observation.”<sup>5</sup> On the same date, the investigators reviewed the trail camera footage: “Images didn’t look great as the winds didn’t help. From some of the images, the POI’s house doesn’t appear to have a vehicle in the driveway.” The investigators’ comments suggest that some images *do* show a vehicle in the driveway, but the report does not address those images. The final date of surveillance was July 24, when the investigators saw Defendant drive to the Grass Lake residence and pull her vehicle into the garage.

On July 24, the investigation was closed. In its conclusion, the report states, “Upon each visit to the [Addison] address, the POI does not appear to be there. It has become obvious that the POI is trying not to be seen.” While acknowledging “vehicle rotation” at the Addison address between a truck and a black SUV,<sup>6</sup> the report nevertheless concludes “beyond reasonable doubt” that Defendant has resided in Jackson County since early 2017.

For the reasons described above, the investigative reports and documents do not lend sufficient credence to Plaintiff’s claims to justify further inquiry by quo warranto proceedings. While the so-called investigative reports submitted by Plaintiff purport to record over a month of

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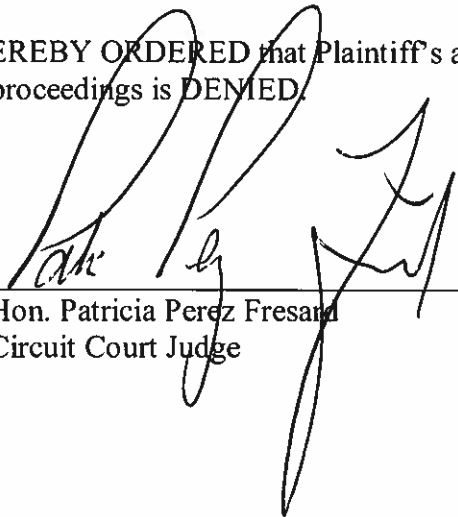
<sup>5</sup> *Maybe* the curtain has not moved since June 1. But without maintaining constant surveillance, the investigator had no way of knowing. Regardless, the movement of a single curtain at the residence is not meaningful support for conclusions reached by the investigators, as further described herein, *infra*.

<sup>6</sup> The report observes Defendant driving a black SUV.

surveillance and observation, they actually describe only a handful of observations, accompanied by highly speculative analysis. Moreover, in response to Plaintiff's amended motion, Defendant offers evidence that she currently resides at the Addison address. In an affidavit, Defendant attests that the Addison address is her residence. Defendant also offers the affidavit of her neighbor, Kyle Hinkle, who states that he lives three doors down from Defendant and regularly lets her dog out while she is at work, but does not feed the dog, because Defendant feeds it. Defendant has also submitted affidavits from her parents, who attest to regularly visiting Defendant at the Addison address. Defendant also provided various documents such as lawncare receipts, but it was actually Plaintiff who provided Defendant's utility bills, which demonstrate seasonal patterns of usage.<sup>7</sup> While Plaintiff has provided documentation that shows a connection between Defendant and the Grass Lake address where her husband resides, that connection does not establish that Defendant resides at the Grass Lake address. In short, none of Plaintiff's evidence supports her claim that Defendant no longer resides at the Addison address. Accordingly, the Court finds no substantive merit to her claims sufficient to justify quo warranto proceedings.

Conclusion

For the reasons stated herein, IT IS HEREBY ORDERED that Plaintiff's amended motion for special leave to file quo warranto proceedings is DENIED.



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Hon. Patricia Perez Fresard  
Circuit Court Judge

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<sup>7</sup> Plaintiff contends that the utility usage at the Addison address is lower than average for a home of that size. However, there is no dispute that utilities are on, and the utility bills show normal seasonal patterns of usage.